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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/546,502	04/11/2000	Michael L. Denby	4045-A2	4775
45848	7590	09/08/2006	EXAMINER	
MICHAEL WINFIELD GOLTRY 4000 N. CENTRAL AVENUE, SUITE 1220 PHOENIX, AZ 85012			ROWAN, KURT C	
			ART UNIT	PAPER NUMBER
			3643	

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**GROUP 3600**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/546,502  
Filing Date: April 11, 2000  
Appellant(s): DENBY, MICHAEL L.

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Michael Goltry  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed June 12, 2006 appealing from the Office action mailed August 27, 2003.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

578,762	McMAHON	3/1897
5,469,652	DROSDAK	11-1995

4,864,767

DROSDAK

9-1989

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3 and 37 stand rejected under 35 USC 103 as being unpatentable over McMahon in view of Drosdak '652.

Claims 38-41 are rejected under 35 USC 103 as being unpatentable over Drosdak '767 in view of Drosdak '652.

### **(10) Response to Argument**

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the knowledge is generally available to one of ordinary skill in the art. In response to applicant's argument that the examiner rejection is overly broad and overly conclusory, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of

ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Further applicant has not proved that the statements made in the rejections are overly conclusory, overly broad, unsupported and over simplified noting that the present invention is merely a fishing line connector having one end that is shown by McMahon and another end that is shown by Drosdak. The question is whether or not the claimed invention can be produced without applicant's disclosure acting as a template for the proposed combination. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The prior art does not need to suggest the combination, as the teaching or motivation can be from the knowledge generally available to one of ordinary skill in the art. The combination proposed by the examiner merely contemplates connecting element a to the main line A by replacing the threads or string wrapped around the shank a with a part of connector 7 having the prongs or barbs as shown by Drosdak' 652. When Drosdak refers to as in column 3, lines 4-8, that other shapes and styles of connector could be used as long as they have a female threaded socket, the proposed rejection has no need for a threaded socket since the coupler b of McMahon already performs that function. Drosdak shows the concept of using barbs or teeth to form a

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connection with a line. This would be faster and easier for mounting the device E to line A rather than form an elaborate wrap around the shank as McMahan uses. In regard to claims 38-41, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the knowledge is generally available to one of ordinary skill in the art. As before, Drosdak '767 shows elements 14, 14' which correspond to opposing plates. Drosdak '767 shows a line attachment portion 12 which would be replaced by line attachment portion 10 of Drosdak '652 for the purpose of replacing a knotted connection with a barbed connection. This merely amounts to replacing one equivalent mechanical connection with another noting that the function is the same. Also, it would also be possible to use the whole connector of Drosdak in the first set of claims since a set of threads could be provided to shank a of McMahan since Drosdak shows threads on the shank of the leader in which case the shank a would be threaded into connector replacing the short threaded portion 4 and the line A would be inserted into teeth or barbs replacing element b of Drosdak.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Kurt Rowan



**KURT ROWAN  
PRIMARY EXAMINER  
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